

TO: The Honorable Board of Supervisors

FROM: F. Craig Meadows, County Administrator
L. Carol Edmonds, Assistant County Administrator

DATE: September 27, 2010

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.

1. Project # 2010024

(3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Courthouse Property

(1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. County Attorney's Annual Review

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. PUBLIC HEARING

A. SUBJECT: BOARD OF SUPERVISORS

The following public hearing was continued from the August 23, 2010 Board of Supervisors meeting:

1. Special Use Permit - Special Use Permit – Joseph & Elizabeth Maxwell-Telecommunication Tower – CONTINUE

A request by Joseph & Elizabeth Maxwell (Agent: Rich Rosenfeld) for a special use permit on 25.12 acres in a General Business (GB) zoning district to allow a 199 ft. telecommunication tower. The property is located at 1485 Harding Road, approximately 350 feet south of the intersection with Fleets Way (private), and is identified as Tax Parcel No. 041-A-60 (Acct # 012046) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Residential Transition in the 2025 Comprehensive Plan.

NOTE: At their August 11, 2010 meeting, the Planning Commission tabled this public hearing to allow the applicant to provide additional information. Therefore, on August 23, 2010 the Board of Supervisors continued this public hearing to September 27, 2010. To date, the Planning Commission has not received additional information from the applicant. This public hearing will be continued to October 25, 2010.

The following public hearing was advertised pursuant to law in the Current Section of the Roanoke Times on August 25, September 1 and September 8, 2010:

2. Agricultural and Forestal District (AFD) -6 Addition – Macon C. Sammons
Request by Macon C. Sammons to add approximately 20.377 acres to existing Agricultural and Forestal District – 6 (AFD-6), which consists of 1,329 acres and 11 property owners. The property is located on Hurst Road (SR 782) and is further identified as tax map parcels 097-A-122 and 097-A-121 (Acct. No's: 020096 and 020097) in the Shawsville Magisterial District (District C). The property currently lies in an area designated as Rural in the Comprehensive Plan. See TAB A.

VIII. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Reassessment
2. Land Use Changes

IX. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

X. PUBLIC ADDRESS

XI. ADDENDUM

XII. CONSENT AGENDA

XIII. NEW BUSINESS

**A. SUBJECT: RESOLUTION APPROVING THE
REFUNDING OF 2001 SERIES BONDS**

**R-FY-11
RESOLUTION TO REFUND
ECONOMIC DEVELOPMENT AUTHORITY
LEASE REVENUE BONDS SERIES 2001**

SEE TAB C FOR A COPY OF THE RESOLUTION.

ISSUE/PURPOSE: 2001 Series Bond Refunding.

JUSTIFICATION: This Resolution authorizes the issuance of Bonds to refund the County's outstanding 2001 Bonds to achieve significant debt service savings to the County. On August 23, 2010, the County's financial advisor, Davenport & Company, LLC presented to the Board of Supervisors the potential opportunity to refund these bonds and generate an annual debt service savings.

TAB C includes a chart from the financial advisor's presentation and a copy of the resolution.

B. SUBJECT: PAYDAY LENDING LEGISLATION

**R-FY-11
RESOLUTION TO REQUEST THE GENERAL
ASSEMBLY AND GOVERNOR TO PROHIBIT ALL PREDATORY, USURIOUS
LENDING PRACTICES IN THE COMMONWEALTH OF VIRGINIA**

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia represents the citizens of the County of Montgomery, Virginia; and

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia believes the citizens of Montgomery County remain concerned over what are perceived to be predatory, usurious lending practices in Montgomery County and elsewhere in the Commonwealth, including practices that can exploit dedicated, brave women and men called to serve in the United States armed services; and

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia shares these continuing concerns and intends through this Resolution to express the collective sentiments and will of Montgomery County citizens that the

General Assembly and Governor of Virginia need to take action to prohibit all predatory, usurious lending practices; and

WHEREAS, It is essential that the General Assembly and the Governor of Virginia address this matter as a high priority at the next legislative session, leading to enactment of laws strictly prohibiting and deterring all predatory, usurious lending practices in the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that, at the next legislative session, the General Assembly and the Governor of the Commonwealth of Virginia are hereby requested to enact laws strictly prohibiting and deterring all predatory, usurious lending practices, including but not limited to provisions that would:

1. Impose an interest rate cap of thirty-six percent (36%), calculated as an effective annual percentage rate including all fees or charges of any kind, for any consumer credit extended in the Commonwealth of Virginia;
2. Prohibit a creditor's use of a personal check or other device as a means, directly or indirectly, to gain access to a consumer's bank account; and
3. Incorporate into the Virginia Code the protections regarding consumer credit to military personnel as reflected in the Military Lending Act, 10 United States Code Section 987.

ISSUE/PURPOSE: Adopt a resolution requesting action by the General Assembly to prohibit all predatory, usurious lending practices in the Commonwealth.

JUSTIFICATION: Details are provided in a letter from the Staunton City Manager, who is requesting all Virginia localities to adopt a similar resolution. See TAB **D** for a copy of the letter.

TAB **D** also includes the APR of payday loans under the legislation passed by the General Assembly in 2008; a list of the localities who have adopted a resolution; and a copy of the Military Lending Act, 10 United States Code Section 987.

C. SUBJECT: BOARD OF EQUALIZATION

**R-FY-11-
BOARD OF EQUALIZATION-REQUEST
TO CREATE AND RECOMMENDATIONS FOR APPOINTMENT**

BE IT RESOLVED, That pursuant to Section 58.1-3370 of the Code of Virginia of 1950, as amended, the Board of Supervisors of Montgomery County, Virginia hereby requests the Honorable Robert Turk, Judge of the Circuit Court of Montgomery County, Virginia to create and appoint for Montgomery County a Board of Equalization of real estate assessments.

BE IT FURTHER RESOLVED, It is requested that the Board of Equalization consist of five (5) Landowners of the County.

BE IT FURTHER RESOLVED, By the Montgomery County Board of Supervisors, the following individuals are recommended to the Honorable Robert Turk, Judge of the Circuit Court of Montgomery County, for consideration and appointment to the Board of Equalization:

1. Louise Baker
2. Melvyn J. Huber
3. William Seitz
4. Curtiss Thornton
5. Phil Wickham

ISSUE/PURPOSE: Resolution requesting the Circuit Court Judge to create, and make appointments to, the Board of Equalization.

JUSTIFICATION: The Board of Equalization (BoE) hears complaints from either citizens or the local government regarding lack of uniformity in assessments, errors in acreage and whether the property was assessed at fair market value. The BoE has the authority to increase or decrease the assessment whether a specific complaint is made or not. The complaints brought before the BoE, the determination of the assessing officer is presumed correct. The burden of proof is upon the taxpayer who must show by substantial evidence that the valuation determined by the assessor is erroneous and was not arrived at in accordance with general accepted appraisal practices.

**D. SUBJECT: BOARD OF EQUALIZATION (BoE)
COMPENSATION**

**R-FY-11-
BOARD OF EQUALIZATION
ESTABLISH COMPENSATION**

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia does hereby authorize payment to the members of the Board of Equalization (BoE) in the amount of \$125 per day.

ISSUE/PURPOSE: To establish compensation for the Board of Equalization members.

**E. SUBJECT: ORDINANCE AMENDING CHAPTER 6,
ENTITLED MOTOR VEHICLES AND
TRAFFIC, OF THE CODE OF
MONTGOMERY COUNTY BY ADDING
SECTION 6-13**

**ORD-FY-11-
AN ORDINANCE AMENDING CHAPTER 6 ENTITLED MOTOR VEHICLES AND
TRAFFIC OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA
BY ADDING SECTION 6-13 PROVIDING THAT A PERSON CONVICTED OF
VIOLATING DUI, RECKLESS DRIVING, DRIVING WITHOUT A LICENSE OR
OTHER SIMILAR PROVISION SHALL AT THE TIME OF SENTENCING OR
IN A SEPARATE CIVIL ACTION BE LIABLE TO THE COUNTY OF MONTGOMERY
OR TO ANY RESPONDING VOLUNTEER FIRE OR RESCUE SQUAD OR BOTH
FOR RESTITUTION OF REASONABLE EXPENSES INCURRED BY THE COUNTY
FOR RESPONDING TO ANY ACCIDENT OR INCIDENT RELATED TO SUCH
VIOLATION INCLUDING EXPENSES INCURRED BY THE SHERIFF'S OFFICE OR
BY ANY VOLUNTEER FIRE OR RESCUE SQUAD**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 6, entitled Motor Vehicles and Traffic, of the Code of the County of Montgomery, Virginia, shall be amended and reordained by adding Section 6-13 as follows:

Sec. 6-13. Reimbursement of expenses incurred in responding to DUI and related incidents.

(a) Any person convicted of violating any of the following provisions shall at the time of sentencing or in a separate civil action, be liable to the County or to any responding volunteer fire or rescue squad, or both, for restitution of reasonable expenses incurred by the County for responding law enforcement,

firefighting, rescue and emergency services, including those incurred by the Montgomery County Sheriff's Office, or by any volunteer fire or rescue squad, or by any combination of the foregoing when providing an appropriate emergency response to any accident or incident related to such violation. Any person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the County or to any responding volunteer fire or rescue squad, or both, for restitution of reasonable expenses incurred by the County when issuing any related arrest warrant or summons, including the expenses incurred by the Montgomery County Sheriff's Office or by any volunteer fire or rescue squad, or by any combination of the foregoing:

1) The provisions of Section 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02 or 46.2-341.24 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency services.

2) The provisions of Article 7 (Section 46.2-852 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency services.

3) The provisions of Article 1 (Section 46.2-300 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to driving without a license or driving with a suspended or revoked license, which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency service.

4) The provisions of Section 46.2-894 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to improperly leaving the scene of an accident which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency services.

(b) Personal liability under this section for reasonable expenses of an appropriate emergency response pursuant to subsection (a) shall not exceed \$1,000 in the aggregate for a particular accident, arrest or incident. In determining the "reasonable expense", the County or volunteer fire and or rescue squad may bill a flat fee of \$350 or a minute by minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law enforcement, fire fighting, rescue and emergency medical services. The Court may order as restitution the reasonable expenses incurred by the County for responding law enforcement, fire fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the County or to any volunteer rescue

squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

ISSUE/PURPOSE: Amend Chapter 6 of the Code of Montgomery County, Virginia by adding Section 6-13.

JUSTIFICATION: Pursuant to the authority granted under Section 15.2-1716 of the Code of Virginia, 1950 as amended, the proposed ordinance provides that a person convicted of violating DUI, reckless driving, driving without a license or other similar provision shall at the time of sentencing or in a separate civil action be liable to the County of Montgomery or to any responding Volunteer Fire or Rescue Squad or both for restitution of reasonable expenses, as outlined in the ordinance, incurred by the County for responding to any accident or incident related to such violations including expenses incurred by the Sheriff's Office or by any Volunteer Fire and Rescue Squad.

F. SUBJECT: RESOLUTION OF APPRECIATION – BARRY ROBINSON – ANR HORTICULTURE AGENT

R-FY-11

**RESOLUTION OF APPRECIATION-
BARRY B. ROBINSON-ANR HORTICULTURE AGENT**

WHEREAS, Virginia Cooperative Extension programs include Agriculture and Natural Resources (ANR) programs that are directed toward a broad range of needs associated with the production of animals, food crops, financial management of agricultural enterprises, and the protection of the environment; and

WHEREAS, *Barry B. Robinson* has been employed as Montgomery County's ANR Horticulture Agent since 2004; and

WHEREAS, His performance of the duties and responsibilities as Montgomery County's ANR Horticulture Agent has been characterized by excellent and constructive contributions to our entire community; and

WHEREAS, One characteristic that distinguished **Barry B. Robinson's** career as a public servant was his enormous capacity for hard work, which demonstrated in many practical ways his deep and genuine devotion to our community and the surrounding areas.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby expresses heartfelt appreciation and sincere thanks to **Barry B. Robinson** for his valuable service and dedication to the citizens in our community, and best wishes for continued success in all his future endeavors.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to **Barry B. Robinson** and that a copy be made a part of the official minutes of Montgomery County.

ISSUE/PURPOSE: Resolution of Appreciation.

XIV. COUNTY ATTORNEY'S REPORT

XV. COUNTY ADMINISTRATOR'S REPORT

1. Legislative Priorities for 2011 (See TAB **E** for a copy of the Legislative Priorities for 2010)

XVI. BOARD MEMBERS' REPORT

1. Supervisor Creed
2. Supervisor Brown
3. Supervisor Marrs
4. Supervisor Biggs
5. Supervisor Politis
6. Supervisor Muffo
7. Supervisor Perkins

XVII. OTHER BUSINESS

XVIII. ADJOURNMENT

FUTURE MEETINGS

Regular Meeting

Tuesday, October 12, 2010

6:00 p.m. – Closed Meeting Items

7:15 p.m. Regular Agenda

Adjourned Meeting

Monday, October 25, 2010

6:00 p.m. – Closed Meeting Items

7:15 p.m. Regular Agenda

Regular Meeting

Wednesday, November 10, 2010

6:00 p.m. – Closed Meeting Items

7:15 p.m. Regular Agenda

TAB C
(Refunding Bond Series 2001)

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF MONTGOMERY, VIRGINIA**

WHEREAS, the Board of Supervisors (**the “Board of Supervisors”**) of the County of Montgomery, Virginia (**the “County”**) has received a plan of refinancing from the County’s Financial Advisor Davenport & Company LLC (**the “Financial Advisor”**) for the refunding of certain outstanding lease revenue bonds issued by the Industrial Development Authority of Montgomery County, Virginia, now known as the Economic Development Authority of Montgomery County, Virginia (**the “Authority”**), specifically the Authority’s Lease Revenue Bonds, Series 2001 in the original principal amount of \$16,995,000 (**the “2001 Bonds”**) through the issuance of the Authority’s Lease Revenue Refunding Bonds, Series 2010, including financing costs of issuance of such refunding bonds; and

WHEREAS, the 2001 Bonds were issued to finance a portion of the costs of the acquisition, construction and equipping of certain improvements and renovations to the Christiansburg Middle School and certain other capital projects for the Montgomery County School System (**together, the “Project”**), to fund a debt service reserve fund for the 2001 Bonds and to pay the costs of issuance of the 2001 Bonds; and

WHEREAS, the Board of Supervisors has reviewed the recommendations from the Financial Advisor and Sands Anderson PC (**“Bond Counsel”**) and has determined that the proposed refunding bonds provide attractive financing terms and significant savings to the County and the Authority from refunding all or a portion of the 2001 Bonds and the Board of Supervisors on behalf of the County desires to proceed with such financing; and

WHEREAS, the Board of Supervisors hereby requests the Authority to (a) issue, offer and sell its public facility lease revenue refunding bonds in an amount of up to \$14,000,000 (**the “Bonds”**) and to use the proceeds of the Bonds to refund all or a portion of the outstanding 2001 Bonds (**the “Bonds to be Refunded”**), (b) lease all or a portion of the real estate on which the Christiansburg Middle School is located (**the “Leased Property”**) pursuant to a ground lease with the County and the Montgomery County School Board (**the “School Board”**) and to lease the Leased Property to the County pursuant to a lease agreement between the County and the Authority with the County providing its moral obligation in support of the payment of the Bonds, (c) secure the Bonds by an assignment of its rights under such lease agreement ground lease (except the right to receive indemnification, to receive notices and to give consents and to receive its administrative expenses) to a corporate trustee to be selected by the County (**the “Trustee”**), under an assignment agreement between the Authority and the Trustee, which is to be acknowledged and consented to by the County, and (d) enter into an escrow agreement for the investment of Bond proceeds and the redemption in full of the Bonds to be Refunded whether through a current or an advance refunding or refundings, all to accomplish certain purposes of the Virginia Industrial Development Revenue Bond Act (**the “Act”**); and

WHEREAS, there have been presented to this meeting drafts of the following documents (**collectively, the “Documents”**) in connection with the transactions described above, copies of which shall be filed with the records of the County Administrator:

- a. a Ground Lease, among the County, the School Board and the Authority conveying to the Authority a leasehold interest in the Leased Property **(the “Ground Lease”)**;
- b. an Indenture of Trust between the Authority and the Trustee, and approved by the County, relating to the issuance of the Bonds **(the “Indenture”)**;
- c. a Financing Lease between the Authority and the County re-conveying to the County the Leased Property **(the “Financing Lease”)**;
- d. an Assignment of Rents and Leases between the Authority and the Trustee, assigning to the Trustee certain of the Authority’s rights under the Financing Lease and the Ground Lease, which is to be acknowledged and consented to by the County and the School Board **(the “Assignment Agreement”)**;
- e. an Escrow Agreement between the County and an Escrow Agent, wherein a portion of the proceeds from the Bonds will be used to refund the Bonds to be Refunded, which is to be acknowledged and consented to by the Authority **(the “Escrow Agreement”)**;
- f. a Continuing Disclosure Agreement to be executed by the County to provide for continuing disclosure with respect to the Bonds in accordance with the Rule (as defined below) **(the “Continuing Disclosure Agreement”)**;
- g. a Specimen Bond; and
- h. an Official Notice of Bond Sale to advertise the Bonds for sale **(the “Notice of Sale”)**.

WHEREAS, there has also been presented to this meeting a copy of the Preliminary Official Statement **(the “Preliminary Official Statement”)** relating to the public offering of the Bonds that has been prepared in connection with the issuance and sale of the Bonds;

NOW THEREFORE, BE IT RESOLVED BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA:

1. The issuance and sale of the Bonds, pursuant to and upon the terms and conditions set forth herein and in the Indenture, and the refunding of the Bonds to be Refunded and leasing of the Leased Property for the benefit of the County are hereby approved and authorized. The following plan for financing the costs of refunding the Bonds to be Refunded is approved. The Authority shall use the proceeds from the issuance of the Bonds to refund the Bonds to be Refunded, including to the extent determined appropriate or required funding an escrow account for the advance refunding of all or a portion of the Bonds to be Refunded and establishing and funding a debt service reserve fund for the Bonds. The Authority shall lease the Leased Property to the County for a lease term not less than the term of the Bonds at a rent sufficient to pay when due the interest and principal on the Bonds. The obligation of the Authority to pay principal and interest on the Bonds will be limited to rent payments received from the County under the Financing Lease. The obligation of the County to pay rent under the Financing Lease will be subject to the Board of Supervisors making annual appropriations for such purpose. The Board of Supervisors on behalf of the County has adopted this resolution as its moral obligation to the

repayment of the Bonds. The Bonds will be secured by an assignment of rents to the Bondholders as the holder thereof. If the Board of Supervisors exercises its right not to appropriate money for rent payments, the Bondholders may terminate the lease or otherwise exclude the County from possession of the Leased Property.

2. The Documents shall be in substantially the forms submitted to this meeting, which are hereby approved with such completions, omissions, modifications, insertions and changes, including, but not limited to rates, redemption premium, payment dates, amounts, prices, maturities, as may be approved by the Chair or in her absence, the Vice Chair, of the Board of Supervisors (**together, the "Chair"**), the County Administrator or the other officers executing them, their execution to constitute conclusive evidence of his or her approval of any such completions, omissions, changes, insertions and changes.

3. The Chair or the County Administrator and all other appropriate officers of the County are each hereby authorized and directed to execute the Documents and to deliver the Documents to the other parties thereto and to execute all certificates and documents, including but not limited to a non-arbitrage and tax certificate, IRS Form 8038-G and such other federal tax compliance certificates and agreements relating to the tax-exempt status of the interest on the Bonds, and to take all such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bonds, the redemption and defeasance in full of the Bonds to be Refunded and the leasing of the Leased Property.

4. The County Administrator, in collaboration with representatives of the Authority and the Financial Advisor, is authorized and directed to take all proper steps to cause the Notice of Sale, or a summary thereof, as appropriate, to be prepared and distributed, in accordance with standard practices of municipal securities, to advertise the Bonds for sale. The Notice of Sale shall be in a form that is not inconsistent with the provisions of this Resolution and as the County Administrator, in consultation with representatives of the Authority and the Financial Advisor, may consider to be in the best interest of the County. The actions of the County Administrator in support of selling and awarding the Bonds shall be conclusive as to the County, and no further action shall be necessary on the part of the Board of Supervisors. After bids have been received and evaluated with respect to the Bonds and the Bonds have been awarded by the County Administrator to the successful purchaser, the Chair and the County Administrator are authorized and directed to take all proper steps to cause the Bonds to be prepared and executed in accordance with the terms of this Resolution and to deliver the Bonds to the purchaser thereof upon payment therefor.

5. The Chair, the County Administrator and such officers and agents of the County as the County Administrator may designate are hereby authorized to complete, prepare, execute, if required, and deliver the Preliminary Official Statement, a final Official Statement, and such other offering or disclosure documents as may be necessary in relation to the County to effect the sale of the Bonds. The Preliminary Official Statement, a final Official Statement, and such other documents shall be published in such publications and distributed in such manner, including by electronic distribution, and at such times as the County Administrator, or such officers and agents of the County as he may designate, in consultation with the Financial Advisor, shall determine. The form of the Preliminary Official Statement and a final Official Statement in substantially the form of the Preliminary Official Statement are approved with respect to the information contained therein pertaining to the County and their use in connection with the

offering and sale of the Bonds is approved and authorized. The Chair and the County Administrator, either of whom may act, are authorized to deem the Preliminary Official Statement "final" for purposes of Securities and Exchange Commission Rule 15c2-12 (**the "Rule"**) in relation to the County.

6. The Bonds shall mature not later than 25 years from the date of issuance thereof, with such shorter maturities and sinking fund and optional redemption provisions as the officers of the County approving such terms shall deem appropriate based on the recommendation of the Financial Advisor (but any redemption premium shall not exceed two percent (2%), and shall be sold initially at a purchase price (exclusive of original issue discount) of not less than 98% of the face amount of the Bonds plus interest accrued thereon to the date of issuance of the Bonds, if any, in any case so as to produce an annual true interest cost of the Bonds of not to exceed 4.00%.

7. To provide additional credit enhancement of the Bonds and to achieve additional financing economies for the County, the Chair or the County Administrator is hereby authorized, based on the recommendation of the Financial Advisor, to agree to municipal bond insurance proposals, which if executed, are hereby approved, and the Chair or the County Administrator is authorized to enter into such instruments and agreements as shall be necessary or desirable to obtain such municipal bond insurance. The Board also authorizes the Chair or the County Administrator, based on the recommendation of the Financial Advisor, to agree to obtain a rating from national rating agencies and to obtain a surety bond for deposit in a Debt Service Reserve Fund under the Indenture, in lieu of funding such Debt Service Reserve Fund from proceeds of the Bonds.

8. The Chair or the County Administrator is authorized and directed to execute, deliver and, as appropriate, record the Ground Lease, the Financing Lease and the Assignment, and all necessary certificates and documents and to approve the terms of the Indenture and the Escrow Agreement and to take all such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bonds and the undertaking of refunding the Bonds to be Refunded. The Chair or the County Administrator is authorized to select a corporate trustee to act as Trustee under the Indenture, based on the recommendation of the Financial Advisor. The Chair, the County Administrator, County Attorney, County Treasurer and County Finance Director and all other officers of the County are hereby authorized and directed to work with representatives of the Authority, Bond Counsel and the Financial Advisor to perform all services and prepare all documentation necessary to bring the Bonds to market and to issue the same.

9. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.

10. The Leased Property is hereby declared to be essential to the efficient operation of the County, and the Board of Supervisors anticipates that the Leased Property will continue to be essential to the operation of the County during the term of the Bonds.

11. The County represents and covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (**the "Code"**) or otherwise cause

the interest on the Bonds to be includable in gross income for Federal income tax purposes under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the Authority or the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds from the sale of the Bonds.

12. Nothing in this Resolution, the Bonds or the Documents shall constitute a debt or a pledge of the faith and credit of the Authority or the County, and the Authority shall not be obligated to make any payments under the Bonds or the Documents except from payments made by or on behalf of the County under the Financing Lease pursuant to annual appropriation thereof in accordance with applicable law. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Financing Lease and hereby recommends that future Board of Supervisors do likewise during the term of thereof.

13. The County hereby designates the Bonds in the principal amount of up to \$14,000,000 as “qualified tax-exempt obligations” for the purpose of Section 265(b)(3) of the Code, and allocates to the Authority in relation to the issuance of the Bonds, up to \$14,000,000 of its allocation of “qualified tax-exempt obligations” for the purpose of Section 265(b)(3) of the Code. The County has not issued, and does not reasonably anticipate (nor do any of its subordinate entities reasonably anticipate) issuing more than \$30,000,000 in qualified tax exempt obligations during calendar year 2010 and the County (and any of its subordinate entities) will not designate more than \$30,000,000 of qualified tax-exempt obligations pursuant to Section 265(b)(3) of the Code during such calendar year.

14. All other acts of the officers of the County that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the refunding of the Bonds to be Refunded are ratified and approved.

15. This Resolution shall take effect immediately.

CERTIFICATION OF ADOPTION OF RESOLUTION

The undersigned Clerk of the Board of Supervisors of the County of Montgomery, Virginia hereby certifies that the Resolution set forth above was adopted in an open meeting on September 27, 2010, by the Board of Supervisors with the following votes:

Aye:

Nay:

Absences:

Abstentions:

Signed this ____ day of _____, 2010.

By: _____
Clerk, Board of Supervisors